

NEW APPLICATION

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE - Chairman
BOB BURNS
ANDY TOBIN
BOYD DUNN
JUSTIN OLSON

In the matter of:

The Credit Engineers, Inc., a Florida
corporation,

David R. Kosack and Bryn Kosack, husband
and wife,

Ernie Barrueta a.k.a. Ernest A. Barrueta, a.k.a
Ernesto A. Barrueta,

David J. Varrone,

Respondents.

DOCKET NO. S-21069A-18-0418

**TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY

EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents The Credit Engineers, Inc., David R. Kosack, Ernesto A. Barrueta, and David J. Varrone are engaging in or are about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

The Division also alleges that David J. Varrone is a person controlling The Credit Engineers, Inc. within the meaning of A.R.S. § 44-1999, so that he is jointly and severally liable under A.R.S. § 44-1999 to the same extent as The Credit Engineers, Inc. for its violations of the Securities Act.

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. David R. Kosack ("Kosack") has been a resident of the state of Arizona at all relevant times.

3. David J. Varrone ("Varrone") has been a resident of the state of Florida at all relevant times.

4. Ernie A. Barrueta a.k.a. Ernest A. Barrueta a.k.a. Ernesto A. Barrueta ("Barrueta") has been a resident of the state of Arizona at all relevant times.

5. The Credit Engineers, Inc. ("TCE") is a corporation organized under the laws of the state of Florida on or about February 21, 2018.

6. Varrone has been the chief executive officer of TCE at all relevant times.

7. TCE, Kosack, Varrone, and Barrueta may be referred to collectively as "Respondents."

8. None of the Respondents have been registered or licensed with the Commission in any capacity.

9. At all relevant times, Bryn Kosack has been the spouse of Respondent Kosack. Bryn Kosack may be referred to as "Respondent Spouse." Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of Kosack's and Respondent Spouse's marital community.

10. At all relevant times, Respondent Kosack has been acting for his own benefit and for the benefit or in furtherance of his marital community.

III.

FACTS

11. On or before July 11, 2018, Barrueta published a website located at www.creditlineleasing.com ("CLL Website").

12. The CLL Website stated in part:

a) "DISCOVER How Having a GOOD Credit Score... Can Create You THOUSANDS In Monthly Cashflow! We GUARANTEE you will be able to do this with NO effort on your part!";

b) "Watch the VIDEO below ... where we spill the beans on how 'average' people can lease their credit score + credit line to professional hedge fund managers and receive a SUBSTANTIAL residual";

c) "Welcome to the New World of Investing... Watch our 30 minute Presentation to Learn How it works AND Why You Need to JOIN this Program!"; and

d) "Our Investment Philosophy... is to consistently earn high returns to change lives and to help others."

13. On August 15, 2018, an Arizona resident ("Offeree") visited the CLL Website and requested a consultation by submitting contact information through the website. Later that day, Offeree received a notification from creditlineleasing@gmail.com that an appointment had been scheduled for August 20, 2018.

14. On August 20, 2018, Offeree received a telephone call from Barrueta. During the telephone call, Offeree told Barrueta that he received a medical retirement of approximately \$4,300 per month and was looking for passive income to supplement his disability income.

15. Barrueta told Offeree that he would send him an email with information that explained the process of "credit leasing" through his company. Barrueta requested that Offeree review the documents and then call him to discuss the process.

1 16. A few minutes later, Barrueta sent Offeree an email on behalf of TCE titled "The
2 Credit Engineers - Credit Consulting (& Leasing) Program(s)."

3 17. The email Burrqueta sent to Offeree stated that two programs were available: "credit
4 consulting," where TCE assists a client obtain funding for the client's own use; and "credit
5 leasing," where TCE "leases" a client's "credit file." The email further stated, "In this case, I have
6 attached the Credit Leasing docs for you."

7 18. Barrueta's email to Offeree contained a section titled "PERSONAL CREDIT
8 CONSULTING & LEASING CLIENT EXPERIENCE" which advised potential clients to create
9 accounts with two credit monitoring services, and then provide their login credentials to TCE along
10 with their current income.

11 19. Barrueta's email further provided that, if accepted, a client would need to submit to
12 TCE personal and financial documents including copies of his driver's license, social security card,
13 bank statements, pay stubs, W-2, and tax returns. The client would also need to submit the TCE
14 Non-Disclosure Agreement and TCE Credit Profile Consulting Agreement.

15 20. Barrueta attached several documents ("Offering Documents") to his email to
16 Offeree. The Offering Documents include:

17 a) A document titled "Personal Profile," which prompted the recipient to
18 provide personal information such as name, social security number, mother's maiden name,
19 driver's license number, income, employer, and login credentials for a credit monitoring service;

20 b) A document titled "THE CREDIT ENGINEERS --- INITIAL DOCUMENT
21 REQUEST FOR FUNDING" which instructs potential "clients" to create an account with a credit
22 monitoring service and send the login credentials, as well as the last four digits of their social
23 security number and their income, to David@thecreditengineers.com;

24 c) A document titled "Limited Power of Attorney," which authorizes TCE to be
25 the signor's attorney-in-fact with respect to "all items related to Funding," including signature
26 authority;

1 d) A document titled "The Credit Engineers Wiring Instructions," which
2 provided the routing number and account number for TCE's bank account; and

3 e) A document titled "The Credit Engineers – NDA," signed by Varrone as a
4 "Co-Founder" of TCE, pursuant to which the receiving party agrees to restrict access to certain
5 information deemed confidential by TCE.

6 21. The Offering Documents also included a written agreement between TCE and the
7 "credit lessor," titled "THE CREDIT ENGINEERS, INC.: CREDIT PROFILE LEASE
8 AGREEMENT For Credit Lease Program" ("Agreement").

9 22. Regarding contributions, the Agreement provides, "Credit Lessor shall bring the
10 required capital and or credit to enter into the Credit Profile Lease Agreement."

11 23. Regarding business decisions and operations, the Agreement provides, "... TCE,
12 for the purposes herein stated, shall make all decisions affecting the business of the Credit Profile
13 Lease" and "TCE shall be in charge of the daily operations of the Credit Profile Lease."

14 24. Regarding payments to the "credit lessor," the Agreement provides as follows:

15 a) "TCE shall pay the Credit Lessor and they shall receive, from funding, an
16 Initial payment of \$10,000. This receipt of the \$10,000 shall signify the start of the Credit Profile
17 Lease."; and

18 b) "After 90 days, the Credit Lessor will receive additional payments OF UP
19 TO \$5,000 monthly for a period of no more than 36 months. This payment is based on the total
20 value of the credit profile being leased. Whatever the total value of all of the credit being leased is,
21 we shall take that value and pay up to 1% of that total value per month. ie: \$500,000 in total loans
22 funded would equate to a \$5,000 a month credit lease payment being received.";

23 c) "TCE will at the 36-month mark, payoff all loans and the monthly credit
24 lease payment shall cease."; and

25 d) "All payments made to the Credit Lessor is for the use of their credit."

26 25. Regarding repayment of the loans, the Agreement provides:

- 1 a) "Both parties understand that the repayment is on a best-effort basis."
2 b) "Credit Lessor will retain a minimum of 6 months' payments from funding.
3 After the 6 month's payments have been utilized, TCE will provide payments for loans on a
4 MONTHLY basis to Credit Lessor."; and

5 c) "In the event payment is not made then TCE will provide resources to cancel
6 existing loans, credit lines and or clean Credit Lessor's credit to the best of its abilities."

7 26. Shortly after sending Offeree the email and Offering Documents, Barrueta called
8 Offeree again to discuss the email.

9 27. During the second call, Barrueta said that he was an independent contractor for
10 TCE. Barrueta then described the "credit leasing" arrangement as follows:

11 a) The client registers with two credit-monitoring services and provides
12 account access information to TCE so that TCE can evaluate the client's credit.

13 b) The "client" provides documents, including a Power of Attorney, to TCE
14 which allows TCE to apply for loans on the client's behalf.

15 c) The client opens a bank account for purposes of receiving loan proceeds,
16 transferring the proceeds to TCE, and receiving funds from TCE.

17 d) TCE applies for loans on the client's behalf.

18 e) The client receives the loan proceeds and then transfers the proceeds to TCE.
19 No further action from the client is required.

20 f) TCE invests the loan proceeds with a hedge fund, generating enough profit
21 to pay clients 1% each month and repay the loans in 36 months.

22 g) TCE makes the monthly payments on the loans.

23 h) The client receives a one-time \$10,000 payment for entering the credit
24 leasing program.

25 i) After a three-month waiting period, the client will receive monthly payments
26 from TCE for 33 months.

1 j) The amount of the monthly payment is 1% of the total loan proceeds
2 obtained by TCE.

3 k) After 33 months, the client's contract with TCE ends and TCE pays off all
4 outstanding loans obtained using the client's credit.

5 28. During the second telephone call, Offeree told Barrueta that he was concerned about
6 the possibility of TCE not paying off the loans. Barrueta responded that Offeree should not worry
7 about that because TCE has been in business for two years and has many clients.

8 29. In or around May 2018, Respondent Kosack offered the TCE credit leasing
9 agreement to an Arizona resident ("Arizona Investor").

10 30. Kosack told the Arizona Investor that he is one of the founders of TCE, and that the
11 other founder is Varrone, who lives in Florida.

12 31. Kosack offered the Arizona Investor an agreement whereby:

13 a) TCE assists him with obtaining loans;

14 b) After receiving the loan proceeds, the Arizona Investor sends the proceeds to
15 TCE;

16 c) TCE invests the proceeds for the benefit of TCE;

17 d) TCE pays the Arizona Investor a one-time fee of \$10,000 plus 1% of the
18 loan proceeds each month for 36 months;

19 e) TCE makes the monthly payments on the loans; and

20 f) At the end of 36 months, TCE pays off any outstanding loan balances.

21 32. The Arizona Investor agreed to enter the program offered by Kosack.

22 33. At the request of TCE, the Arizona Investor created an account with a credit
23 monitoring service and provided TCE with the details of his financial condition as well as other
24 personal information.

25 34. TCE then applied for loans using the Arizona Investor's information, and the loan
26 proceeds were deposited into a bank account he opened for purposes of the agreement with TCE.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

45. In connection with the offer or sale of securities within or from Arizona, Respondents TCE, Kosack, and Barrueta are, directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

a) Making untrue and/or misleading statements of material fact to Offeree and the Arizona Investor regarding its use of the proceeds to invest in a hedge fund; and

b) Misappropriation of certain funds invested by the Arizona Investor.

46. This conduct violates A.R.S. § 44-1991.

VII.

CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999

47. Since at least February 21, 2018, Varrone has been and/or held himself out as the chief executive officer of TCE.

48. Since at least February 21, 2018, Varrone has directly or indirectly controlled TCE within the meaning of A.R.S. § 44-1999. Therefore, Varrone is jointly and severally liable to the same extent as TCE for its violations of the Securities Act since February 21, 2018.

VIII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

1 IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that
2 Respondents, their agents, servants, employees, successors, assigns, and those persons in active
3 concert or participation with Respondents CEASE AND DESIST from any violations of the
4 Securities Act.

5 IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in
6 effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

7 IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order
8 shall remain effective from the date a hearing is requested until a decision is entered unless
9 otherwise ordered by the Commission.

10 IT IS FURTHER ORDERED that this Order shall be effective immediately.

11 **IX.**

12 **REQUESTED RELIEF**

13 The Division requests that the Commission grant the following relief:

14 1. Order Respondents to permanently cease and desist from violating the Securities Act
15 pursuant to A.R.S. § 44-2032;

16 2. Order Respondents to take affirmative action to correct the conditions resulting from
17 Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to
18 A.R.S. § 44-2032;

19 3. Order Respondents to pay the state of Arizona administrative penalties of up to five
20 thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

21 4. Order that the marital community of Kosack and Respondent Spouse is subject to
22 any order of restitution, rescission, administrative penalties, or other appropriate affirmative action
23 pursuant to A.R.S. § 25-215; and

24 5. Order any other relief that the Commission deems appropriate.

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X.

HEARING OPPORTUNITY

Each Respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. **If a Respondent or Respondent Spouse requests a hearing, the requesting Respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting Respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties, or other relief.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon, ADA Coordinator, voice phone number (602) 542-3931, e-mail kcannon@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

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XI.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing, the requesting Respondent must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Temporary Order and Notice. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.azcc.gov/divisions/hearings/docket.asp.

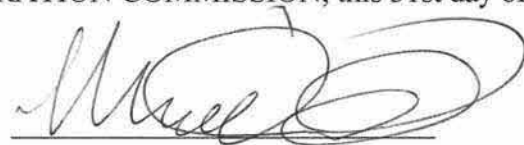
Additionally, the answering Respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007, addressed to Christopher Nichols.

The Answer shall contain an admission or denial of each allegation in this Temporary Order and Notice and the original signature of the answering respondent or the Respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When the answering Respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 31st day of December, 2018.



Mark Dinell
Acting Director of Securities